

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Christopher Foraker,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1207 (GMS)
)	
L. Aaron Chaffinch, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff Christopher Foraker, a sergeant with the Delaware State Police, filed the above-captioned action on August 30, 2004. The facts giving rise to this suit relate to the defendants' allegedly retaliatory actions in response to a different lawsuit Foraker filed in 2002. The complaint states four counts against the defendants, including Free Speech Retaliation (Count I), Petition Clause Retaliation (Count II), Defamation (Count III), and False Light Invasion of Privacy (Count IV). (D.I. 1 ¶¶ 80-95.) Presently before the court is Foraker's motion for summary judgment as to Counts I and II. (D.I. 61.) According to the Foraker, in order to prevail in this motion, he "must demonstrate that [his protected] conduct was a 'substantial' or 'motivating factor' in the relevant decision." (D.I. 64 at 35.) In response, the defendants point to deposition testimony where they admit being displeased with Foraker for filing the 2002 suit, but deny having any ill will toward him for doing so. (See, e.g., Chaffinch Dep. at 40:4-42:1; MacLeish Dep. at 32:5-33:5.) From this testimony, a factfinder might reasonably conclude that the defendants' decisions were not motivated by Foraker's protected conduct. The defendants have thus proven the existence of a genuine issue of material fact, and therefore, summary judgment in Foraker's favor is inappropriate.

IT IS HEREBY ORDERED THAT:

Foraker's motion for summary judgment as to Counts I and II (D.I. 61) be DENIED.

Dated: April 10, 2006

/s/ Gregory M. Sleet
UNITED STATES DISTRICT JUDGE